

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today
(1) was not written for publication in a law journal and
(2) is not binding precedent of the Board.

Paper No. 15

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte THOMAS W. LYLES,
ROBERT A. COURTWRIGHT, DANIEL C. ALLEN
and
EDGAR GRIGSBY, JR.

Appeal No. 96-1692
Application 08/156,811¹

ON BRIEF

Before MEISTER, FRANKFORT and STAAB, Administrative Patent Judges.

FRANKFORT, Administrative Patent Judge.

¹ Application for patent filed November 22, 1993.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1 through 5, 20 and 21, which are all of the claims remaining in this application. Claims 6 through 19 have been canceled.

Appellants' invention is directed to a method of assembling a land vehicle (claim 21) and, more particularly, to a method of assembling a golf car (claims 1 and 20). As explained on page 2 of their brief, the golf car

can have either an electric motor (16) drive system or an internal combustion engine (14) drive system. The method comprises selecting (308) a type of drive system and connecting (310) the selected type of drive system to a chassis (12). Unlike prior art golf cars, the chassis (12) is adapted to alternatively receive either the electric motor drive system or the internal combustion engine drive system. Thus, the method allows golf cars to be assembled on a single assembly line as either electric cars or internal combustion engine cars. The method allows rapid selection of different drive systems types for manufacturing both electric motor cars and internal combustion engine cars on the single assembly line, based upon product

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demand, without having to reconfigure
the assembly line for the different
types of cars.

Independent claims 1 and 21 are representative of the
claimed subject matter and read as follows:

1. A method of assembling a golf car comprising steps
of:

providing a golf car chassis having a general block
shaped drive system receiving area;

selecting a type of drive system from a group of drive
system types consisting of an electric motor drive system and an
internal combustion engine drive system; and

connecting a drive system of the selected type of drive
system to the chassis in the drive system receiving area.

21. A method of assembling a land vehicle comprising
steps of:

providing a vehicle chassis;

selecting a drive system from a group of drive systems,
the group of drive systems comprising an electric motor type and
an internal combustion engine type; and

connecting the selected drive system to the chassis.

The references of record relied upon by the examiner in
rejections of the appealed claims under 35 U.S.C. § 102(b) are:

Westmont	3,108,481	Oct. 29, 1963
Gardner	3,608,659	Sept. 28, 1971
Lanius et al. (Lanius)	4,930,591	June 5, 1990

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Claims 1 through 5, 20 and 21 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which appellants regard as their invention.

Claims 1, 2, 4, 5, 20 and 21 stand rejected under 35 U.S.C. § 102(b) as being clearly anticipated by Gardner.

Claims 1, 3, 4, 5, 20 and 21 stand rejected under 35 § U.S.C. 102(b) as being clearly anticipated by either of Westmont or Lanius.

Rather than reiterate the examiner's full explanation of the above-noted rejections and the conflicting viewpoints advanced by the examiner and appellants regarding those rejections, we make reference to the examiner's answer (Paper No. 12, mailed August 28, 1995) and the supplemental examiner's answer (Paper No. 14, mailed October 11, 1995) for the examiner's reasoning in support of the rejections, and to appellants' brief (Paper No. 11, filed July 19, 1995) and reply brief

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(Paper No. 13, filed September 8, 1995) for appellants' arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to appellants' specification and claims, to the applied prior art references, and to the respective positions articulated by appellants and the examiner. As a consequence of our review, we have made the determinations which follow.

Turning first to the examiner's rejection of claims 1 through 5, 20 and 21 under 35 U.S.C. § 112, second paragraph, we note that the examiner's position is that

[t]he terms "the selected type" or "the selected style" or "selected drive system" in appellant's [sic] claims are vague and indefinite because it is not apparent which "selected type" or which "selected style" or which "selected drive system" is claimed. Since the drive systems and/or styles are mutually exclusive the claims cannot recite that both systems are operating at the same time or that both styles are structurally connected at the same time (answer, page 4).

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After reviewing the claims on appeal, it is our determination that the examiner is incorrect concerning the questioned claim language. We reach this conclusion essentially for the reasons set forth by appellants on pages 3-5 of their brief.

When the language of the claims on appeal is considered from the perspective of one of ordinary skill in the art, we have no doubt that such an artisan would understand the metes and bounds of the claimed subject matter.

Based on the foregoing, we find that the scope of the subject matter embraced by appellants' claims 1 through 5, 20 and 21 is reasonably clear and definite, and fulfills the requirement of 35 U.S.C. § 112, second paragraph, that it provide those who would endeavor, in future enterprise, to approach the area circumscribed by the claim, with the adequate notice demanded by due process of law, so that they may more readily and accurately determine the boundaries of protection involved and evaluate the possibility of infringement and dominance. See In re Hammack, 427 F.2d 1378, 1382, 166 USPQ 204, 208 (CCPA

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1970). Therefore, we will not sustain the examiner's rejection of claims 1 through 5, 20 and 21 under 35 U.S.C. § 112, second paragraph.

We next look to the examiner's prior art rejections of the appealed claims under 35 U.S.C. § 102(b). With regard to Gardner, it is the examiner's opinion, that

Gardner discloses a golf car with a chassis, and electric drive [sic, drive] system comprising a set of drive batteries, an electric motor and a rear axle assembly connected to the electric motor connecting the electric motor drive system to the drive axle and all assemblies substantially entirely in the drive system receiving area (answer, page 5).

With regard to Westmont and Lanius, the examiner has indicated that each of these references discloses "a golf car chassis with an internal combustion engine and a drive assembly connected to the rear axle assembly" (answer, page 5).

Noticeably absent from the examiner's comments regarding the applied prior art references is any mention of a "method of assembling a golf car" as is defined in claims 1

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through 5 and 20 on appeal, or of a "method of assembling a land vehicle" as set forth in appellants' claim 21 on appeal. It would appear to be the examiner's position that the applied references somehow each "inherently" teach or suggest the claimed methods of assembly based simply on the disclosure of a given type of golf car including, in one case, a chassis and an electric motor drive system (Gardner) and in another case, a chassis and an internal combustion engine drive system (Westmont and Lanius). In this

regard, the examiner has stated on page 7 of the answer that

the prior art cited and applied to appellant's [sic] claims has been selected from a group of drive system types or selected from a group of body part types or selected from a group of body part styles. Although the reference may show one drive system, or one body part or one body part style it meets the claimed recitation of "selecting a type...from a group of types...".

We do not find the examiner's position to be sustainable. Like appellants (brief, pages 5-10, and reply brief, pages 2-3), we are of the opinion that the examiner has failed to consider the claims as a whole, and that he has not given weight to the fact that these claims are directed to a method or process of assembling a golf car or land vehicle, and not to the golf car or vehicle itself. Nowhere in the applied prior art references is there disclosed or suggested a golf car assembly method which utilizes a single type of chassis (i.e., one having a general block shaped drive system receiving area) to produce golf cars with different types of drive systems (electric motors or internal combustion engines) in a single assembly line. The examiner's apparent speculation concerning the methods by which the

vehicles of Gardner, Westmont and Lanius may have been assembled is of no value in evaluating appellants' claims on appeal. The selection of the proper type of drive system for a given golf car or land vehicle in appellants' claimed method takes place during the actual assembly of the golf car/vehicle while the universal

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chassis for the car/vehicle is moving down the assembly line, with that selection being immediately followed by connection of the selected drive system to the chassis in the drive system receiving area. The particular assembly methods as defined in appellants' claims on appeal are simply not taught or suggested by the prior art references applied by the examiner. Accordingly, based on the reference evidence provided by the examiner, we are constrained to reverse.

In light of the foregoing, the examiner's respective rejections of appealed claims 1 through 5, 20 and 21 under 35 U.S.C. § 102(b) will not be sustained.

To summarize our decision, the examiner's rejection of claims 1 through 5, 20 and 21 under 35 U.S.C. § 112, second paragraph, has been reversed;

the examiner's rejection of claims 1, 2, 4, 5, 20 and 21 under 35 U.S.C. § 102(b) as being clearly anticipated by Gardner has been reversed; and

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the examiner's rejection of claims 1, 3, 4, 5, 20
and 21 under 35 U.S.C. § 102(b) as being clearly anticipated by
either of Westmont or Lanius has also been reversed.

REVERSED

JAMES M. MEISTER)	
Administrative Patent Judge)	
)	
)	
CHARLES E. FRANKFORT)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
)	
)	
LAWRENCE J. STAAB)	
Administrative Patent Judge)	

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Mark F. Harrington
Perman & Green
425 Post Road
Fairfield, CT 06430